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FEB 17 2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of George E. Fox, )  
Richard C. Willson III and Zhengdong Zhang )  
**Serial No.: 10/057,270** )  
Filed: 26 Jan 2002 )  
For: ...Methods for Determining the Genetic )  
Affinity of Microorganisms and viruses )  
 ) Examiner Jason  
 ) Sims(571 272-7540  
 ) Group 1631  
Priority: 26 Jan 2001, USSN 60/254,403 )  
Attorney Docket: 010AUS )  
USPTO Customer Number: 26830 )  
**Response Due:** 14 February 2009[Next Bus. Day = 17 Feb. 09]

Commissioner for Patents  
Box 1450 Group 1631  
Alexandria VA 22313-1450

**RESPONSE TO NONFINAL REJECTION**

Sir:

In response to the Office Action mailed November 14, 2008,  
consideration of the following Amendments and Remarks is solicited.

The undersigned Attorney certifies that this  
Document has been filed via fax to 571-273-8300  
Central Fax of the USPTO on 17 February 2009  
[first business day after Feb 13, 2009] (17 FEB  
2009).

No additional fee is believed due because the withdrawn claims  
have now been cancelled to avoid additional fees with right  
reserved to refile these claims in the future. The Claims now  
number 20 including 2 independent claims.

**A telephone interview with the Examiner is requested for  
3pm on February 23** (or other mutually convenient date to be  
suggested by Examiner Sims) to discuss: A. Why claims 25 and

32-34 and 36-38 are considered withdrawn, B. Obviating the 35 USC 112 objections and C. To review how the Claims differentiate from the Ebersole reference.